

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 9005

UNITED STATES OF AMERICA,
Plaintiff,

v.

Jose GALLEGOS-Lopez

Defendants

) Mag. Case No.
) COMPLAINT FOR VIOLATION OF:
)
) Title 8, U.S.C., Section 1324
) (a)(1)(A)(iii)- Harboring Illegal Alien(s)

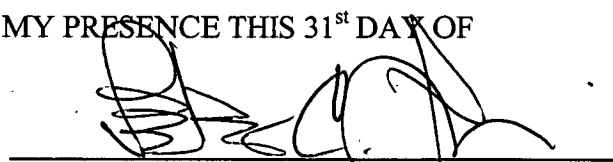
The undersigned complainant, being duly sworn, states:

On or about December 30, 2007, within the Southern District of California, defendant Jose GALLEGOS-Lopez and , knowing and in reckless disregard of the fact that an alien, namely, HERNANDEZ-Montes Bernabe and MONTES-Alberdin, Gerardo had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection such alien in a building located in Calexico, California; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

And the complainant states that this complaint is based on the attached statement of facts which, is incorporated herein by reference.


Senior Border Patrol Agent

SWORN TO BEFORE AND SUBSCRIBED IN MY PRESENCE THIS 31ST DAY OF
DECEMBER 2007.


Peter C. Lewis
United States Magistrate Judge

1 UNITED STATES OF AMERICA

2 VS.

3 Jose GALLEGOS-Lopez

4
5 STATEMENT OF FACTS

6
7 The complainant states that this complaint is based upon statements in the investigative
8 reports by the apprehending officer, Border Patrol Agents M. Harrington, A. Mills, S. Sedano, M.
9 Battaglini, and M. Sandoval, that on 12/30/2007, the defendant, a United States citizen was
10 apprehended near Calexico, California, as he harbored, concealed, and shielded from detection
11 two illegal aliens in violation of law.

12 On 12/30/2007, Agents Sandoval, Harrington, and Battaglini were conducting
13 surveillance east of the Calexico, California Port of Entry and saw an individual later identified
14 as, Jose Lopez GALLEGOS. GALLEGOS walked outside of his back yard and began
15 discharging a pellet gun. Shortly after discharging the pellet gun, Agents observed several
16 suspected smugglers in Mexico run up towards the border fence. The suspected smugglers
17 placed a ladder on the border fence. Two suspected illegal aliens climbed up the ladder and over
18 the top of the border fence and illegally enter the United States. Agents observed the two
19 individuals run north across First Street. While the two suspected illegal aliens were running,
20 smugglers on the Mexico side were yelling out directions.

21 Agents observed the two suspects run into the backyard of the residence of 941 First
22 Street. Upon entering the backyard the two suspects ran within feet of GALLEGOS and directly
23 into a shed slamming the door shut behind them.

24 Agent Bataglini responded to the front of the residence and identified himself as a United
25 States Border Patrol Agent and questioned GALLEGOS. GALLEGOS became agitated and tried
26 to walk into the front door of the residence. Agents attempted to detain GALLEGOS, but
27 GALLEGOS became combative. It took several agents to subdue GALLEGOS. GALLEGOS
28 was placed under arrest.
29

1 Agents Sandoval, Sedano, and Carter approached the shed in the backyard. The shed was
2 locked. Agents knocked on the door several time, however no one would respond. Agent Mills
3 spoke with Jose Gallegos Sr., the owner of the house. Jose Gallegos Sr. gave Agent Mills the
4 key and permission to look inside the shed. The door was opened and two suspected illegal
5 aliens were crouched down inside. Agent Carter identified himself as a United States Border
6 Patrol Agent and questioned the two subjects. Both claimed to be citizens of Mexico without
7 any immigration documents that would allow them to be in, work or remain in the United States
8 legally. GALLEGOS and the two subjects were placed under arrest and transported to the
9 Calexico Station for further processing.

10 Agent Mills spoke with Jose Gallegos Sr. and received permission to search inside the
11 house for illegal aliens and the pellet gun. Agent Mills did not encounter any aliens inside the
12 house however; the pellet gun was on top of an entertainment center. Agent Mills seized the
13 pellet gun.

14 At the Calexico Border Patrol Station, Agent M. Sandoval witnessed Agent S. Sedano
15 read GALLEGOS his Miranda Rights.

16 Material Witnesses Bernabe HERNANDEZ-Montes and Gerardo MONTES-Alberdin
17 stated they are citizens of Mexico illegally in the United States. HERNANDEZ and MONTES
18 stated they made arrangements to pay between \$2,500.00 and \$2,800.00 to be smuggled into the
19 United States. HERNANDEZ and MONTES stated that they received instructions to run into the
20 shed located behind a specific house that smugglers pointed out through the border fence. The
21 smugglers placed a ladder against the fence and both HERNANDEZ and MONTES made an
22 illegal entry into the United States by climbing the ladder then lowering themselves down on the
23 other side with a rope. HERNANDEZ and MONTES stated that the shed they ran into was left
24 open for them. HERNANDEZ and MONTES entered the shed and locked the door behind them.

25 HERNANDEZ-Montes, Bernabe and MONTES-Alberdin, Gerardo were shown a six-
26 pack photo lineup. Neither HERNANDEZ or MONTES were able to positively identify anyone
27 on the photos
28
29

The complainant states that the names of the Material Witnesses are as follows:

<u>NAME</u>	<u>PLACE OF BIRTH</u>
HERNANDEZ-Montes, Bernabe	Mexico
MONTES-Alberdin, Gerardo	Mexico

Further, complainant states that HERNANDEZ-Montes, Bernabe, MONTES-Alberdin, Gerardo, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.